

# **Exhibit B**

**Trial Transcript, April 18, 2015 [Dkt. No. 156], excerpted pages 2317-20  
(Jury Instruction 44 as delivered to the jury)**

1 include an antique firearm.

2 A firearm is said to be possessed in furtherance of a  
3 crime of violence offense when the firearm was possessed to  
4 advance, assist, or promote the commission of the offense.  
5 However, mere presence of a firearm is not sufficient.

6 In considering whether or not a firearm was possessed in  
7 furtherance of a crime of violence, you may consider the type of  
8 activity that is being conducted, the location of the activity,  
9 the accessibility of the firearm, the type of weapon, whether the  
10 weapon is loaded, and the time and circumstances under which the  
11 weapon was possessed.

12 Instruction 44 is going to define for you various  
13 offenses that constitute crimes of violence or felony which may be  
14 prosecuted in a court of the United States, and these are  
15 technical terms that are used in the statute, so you do need to  
16 know them.

17 The following offenses constitute crimes of violence for  
18 purposes of Count 1 of the indictment as well as for Counts 7 and  
19 8 of the indictment and also constitute felonies which may be  
20 prosecuted in a court of the United States for purposes of Counts  
21 9 and 10 of the indictment.

22 And in some of the other sections of the, of the  
23 instructions, I may have shortened that latter term, just calling  
24 them federal felonies, but a federal felony would be a felony  
25 which can be prosecuted in a court of the United States, all

1 right? And now I'm listing these.

2 A. Levying war against the United States and conspiring  
3 to do so, in violation of Title 18, United States Code, sections  
4 2381 and 2384;

5 B. Attempting and conspiring to supply services to the  
6 Taliban, in violation of Title 50, United States Code, section  
7 1705;

8 C. Beginning, providing for, preparing a means for, and  
9 taking part in military expeditions and enterprises to be carried  
10 on from the United States against the territory and dominion of  
11 foreign states, districts, and peoples with whom the United States  
12 was at peace -- and conspiring to do so -- in violation of Title  
13 18, United States Code, sections 371 and 960;

14 D. Enlisting and entering oneself or another to go  
15 beyond the jurisdiction of the United States with intent to be  
16 enlisted and entered in the service of any foreign prince, state,  
17 colony, district, and people as a soldier -- and conspiring to do  
18 so -- in violation of Title 18, United States Code, sections 371  
19 and 959;

20 E. Conspiring to commit at any place outside the United  
21 States acts that would constitute the offense of murder or maiming  
22 if committed in the special maritime and territorial jurisdiction  
23 of the United States, in violation of Title 18, United States  
24 Code, section 956(a);

25 F. Conspiring to damage or destroy specific property

1 situated within a foreign country and belonging to a foreign  
2 government or to any political subdivision thereof with which the  
3 United States is at peace, and any railroad, canal, bridge,  
4 airport, airfield, and other public utility, public conveyance,  
5 and public structure and any religious, educational, and cultural  
6 property so situated, in violation of Title 18, United States  
7 Code, section 956(b);

8           G. Attempting and conspiring to provide material  
9 support and resources, knowing or intending that they are to be  
10 used in preparation for or in carrying out a violation of section  
11 956 of Title 18, United States Code, in violation of Title 18,  
12 United States Code, section 2339(a);

13           H. Attempting and conspiring to provide material  
14 support and resources to Al-Qaeda, in violation of Title 18,  
15 United States Code, section 2339(b); and

16           I. Enlisting and engaging with intent to serve in armed  
17 hostility against the United States -- and conspiring to do so --  
18 in violation of Title 18, United States Code, sections 371 and  
19 2390.

20           Now, Counts 1, 7, and 8 include an element referring to  
21 crimes of violence, and Counts 9 and 10 refer to "a felony which  
22 may be prosecuted in a court of the United States," which I'm  
23 shortening to a federal felony.

24           To find this element, the jury must be unanimous as to  
25 which of the nine enumerated crimes was involved. And the nine



1 enumerated crimes are the ones that you have listed there in  
2 Instruction 44. The jury may unanimously find more than one crime  
3 of violence or federal felony; however, to satisfy that element,  
4 the jury must unanimously find at least one such crime for each  
5 count.

6 We're moving on to Count 2. Does anyone need a break  
7 yet, or are you all okay? All right? Okay.

8 Count 2 of the indictment charges that between on or  
9 about September 16, 2001, and continuing up to on or about October  
10 21, 2001, in Fairfax County, in the Eastern District of Virginia,  
11 the defendant, Ali Al-Timimi, with intent that another person  
12 engage in conduct constituting a felony that has as an element the  
13 use, attempted use, or threatened use of physical force against  
14 property or the person of another in violation of the laws of the  
15 United States, and under circumstances strongly corroborative of  
16 that intent, did knowingly and unlawfully solicit, command,  
17 induce, and otherwise endeavor to persuade Masaud Khan, Yong Kwon,  
18 Khwaja Hasan, Muhammad Aatique, Randall Royer, Hammad  
19 Abdur-Raheem, Donald Surratt, Unindicted Coconspirator No. 2,  
20 Caliph Basha Ibn Abdur-Raheem, and others known and unknown to the  
21 grand jury, to levy war against the United States and adhere to  
22 their enemies, while owing allegiance to the United States, giving  
23 aid and comfort to the Taliban in the United States and  
24 Afghanistan and elsewhere, in violation of Title 18, United States  
25 Code, section 2381.